

# INFORMATION LETTER

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Publication

NATIONAL CANNERS ASSOCIATION

For Members  
Only

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## TOMATO PASTE INDUSTRY RULES

### Fair Practice Rules Promulgated by Federal Trade Commission Include Specifications

Trade practice rules for the tomato paste manufacturing industry have been promulgated by the Federal Trade Commission under its trade practice conference procedure, and were released September 3.

Conference of the industry was held May 5, 1938, in San Francisco, under the Commission's auspices, and proposed trade practice rules were submitted by members of the industry. Following this, tentative action was taken by the Commission on the rules submitted and a draft of proposed rules was made available for study by the industry. This tentative draft was published in the INFORMATION LETTER of June 18, 1938. Opportunity was given the industry at a hearing in Washington to present pertinent facts, suggestions, or objections to these rules.

As usual, the rules promulgated are divided into two groups. Those in Group I have the force and effect of law, and violations of them will result in proceedings by the Commission in the public interest. Specifications for tomato paste are included in the Group I rules, so that the sale or offering for sale of paste not conforming to the specifications of the kind of paste it purports to be will be held to be misrepresentation and an unfair trade practice.

Group II trade practice rules are considered to be conducive to sound business methods but are to be encouraged and promoted through voluntary cooperation.

"These rules do not in any respect supplant, or relieve anyone of the necessity of complying with, the legal requirements of the pure food laws or other provision of law," the Commission said of the two groups. "They are established under statutes administered by the Federal Trade Commission for the purpose of more effectively stamping out unfair practices in the interest of the public, and to assist in general law enforcement to this end."

The rules as released by the Commission follow:

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

#### Group I

Unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission, as construed in the decisions of the Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

#### Rule 1.—Misrepresentation of Industry Products

The practice of selling, packing, advertising, or representing tomato paste or related products, or any simulation or imitation thereof, in a manner which is calculated to mislead or deceive or has the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public with respect to the character, nature, content, grade, quality, quantity, origin, substance, material, preparation, or manufacture of such products, or in any other material respect, is an unfair trade practice.

#### Rule 2.—Specifications—Tomato Paste

For the purpose of and as used in these rules (a) Tomato Paste (Salsa di Pomodoro, "Salsa") is understood to be the product resulting from the concentration of the screened or strained fleshy and liquid portions of ripe tomatoes, except those portions from skin and core trimmings; with or without the addition of salt, and with or without the addition of basil leaf. The finished product shall contain not less than 22 per cent of tomato solids.

(b) Should such minimum of 22 per cent tomato solids hereafter be raised to a higher percentage or proportion by

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## Wage-Law Administrator Names Two Aides

Paul Sifton, former deputy industrial commissioner of New York under Administrator Elmer F. Andrews, was named by Mr. Andrews this week as deputy administrator of the Federal wage-hour law, which goes into national operation in six weeks. Last week Mr. Andrews appointed A. L. Fletcher, former North Carolina labor commissioner, as assistant wage-hour administrator in charge of compliance. Information bureau will be established next week, the Administrator announced.

## Administrative Council Meets September 28-29

President Karl Kuner Mayer has called a meeting of the Administrative Council to be held at the Palmer House on Wednesday and Thursday, September 28 and 29. Among the subjects to come before the Council are problems arising from the new Federal Wage and Hour Act and the new Food, Drug and Cosmetic Act; the survey of can sizes conducted by the National Bureau of Standards; and plans for the 1939 convention.

The Association's Committee on Simplification of Containers is expected to convene on the day prior to the Administrative Council meeting to prepare a report on the can size survey for presentation to the Council.

### National Retail Grocers' Week

National Retail Grocers' Week will be observed this year from October 10 through October 15, according to announcement of the National Association of Retail Grocers. The purpose of the Week is to draw public attention to the many services individual grocers perform for American consumers. Numerous publicity, advertising, and merchandising plans will be used to do this. All factors in the trade concerned with distribution have been invited to take part in the event. Elaborate store display material, consumer contests, radio and newspaper advertising, talks before consumer groups and civic organizations, and local newspaper "tie-ins" will be utilized.

### Retailer Charged with Misrepresenting Status

Miller Growers' Association, 53 Park Place, New York, retailer of citrus fruits, has been charged by the Federal Trade Commission with falsely representing, by use of its corporate name and otherwise, that it constitutes an association of growers and owns and operates citrus groves. The association also is charged with using deceptive and misleading statements regarding the quality of the fruits it sells.

The Commission in its complaint charged that the respondent members of the association do not own or operate, jointly or individually, any citrus grove in Florida or in any other State where citrus fruits offered for sale by them are produced, and do not constitute an association of citrus fruit growers. In fact, it is charged, the citrus fruits sold by the respondents are purchased from local markets in the territories where they operate.

### TOMATO DISEASES STUDIED

#### Relation of Infections to Source of Transplants Investigated in Indiana

Examination of 108 fields, representing all of the important tomato-growing sections of Indiana, was made this season by the U. S. Department of Agriculture, in cooperation with Purdue University, in an attempt to determine the relation of the diseases present to the source of the transplant used.

Most transplants for these fields came from open-field plantings in Georgia, Tennessee, Southern Illinois, and Southern Indiana. Some fields were set with greenhouse and cold-frame grown plants. Results of this examination are contained in the August 15, 1938, issue of the *Plant Disease Reporter*, published by the U. S. Department of Agriculture.

According to this report, bacterial spot was found to be rather generally spread throughout the tomato-growing sections of the State. The disease has been responsible for much early defoliation, blossom drop, and fruit spotting. Heavy rain storms followed by frequent showers and nights with heavy dews have made conditions favorable for the development of this disease.

More bacterial wilt than usual has appeared this year in fields set late with Georgia plants. Losses ranging from 8 to 40 per cent have been noted.

Collar rot has been no more serious than in the past on out-of-State plants. As in previous years, late shipments from Georgia and Illinois were commonly infected with macrosporium leaf spot and stem lesions, causing many lots of

plants to be rejected. Several shipments of plants from Mississippi were severely infested with collar rot this year and most fields set with such plants had to be reset. Collar rot was found in open-seeded plant beds at two places in Indiana late in the plant bed season.

Frequent observations of a considerable amount of bacterial spot on plants from a certain source or shipment in one part of a field and absence of the disease on plants from another source or shipment in the same field indicate that, in general, the disease must have come in on the plants. The evidence accumulated through observation of the 108 fields does not, however, warrant very positive conclusions. The disease was found on transplanted plants from all plant-growing regions with the exception of some grown in greenhouses and cold frames.

No special effort was made to trace the seed sources or seed treatment, but it is known that bacterial spot has appeared on plants from seed treated with 1-300 mercuric chloride for 5 minutes and also with seed treated with New Improved Ceresan 1-1200 for 5 minutes. Some plants were from seed receiving both treatments. The majority of the observations made point to the plant beds as the source of bacterial spot infection, but several incidences made it unwise to exclude possibilities of some local infection. Most of the tomato acreage in the State is set on land that has not grown tomatoes for at least two years.

### June to September in the Service Kitchen

Twenty-one members of the Association have asked for the services of the Home Economics kitchen since it was opened on June 15th. Most of the requests have been for the development of new recipes, which often requires that several trial recipes be worked out in order to find the exact proportion of ingredients best suited for each product.

One trial recipe usually is sufficient to test a recipe submitted by a canner, but if there is any doubt as to the success of a trial recipe, a second one is prepared in order to check results. If necessary, further work is done.

Requests for service have been complied with in the order in which they were received. Over 100 requests for recipes are awaiting attention. These requests represent a wide range of products.

Among the products for which recipes have been developed and tested are cherries, cherry juice, cranberry juice and sauce, grapefruit, grapefruit juice, grapefruit and orange sections, peaches, a complete line of canned meats, sauerkraut, peas, corn, and tuna fish. While this is not a complete line of products it will show the variety of work being done in the kitchen.

### PHILIPPINE CANNERY BEING BUILT

#### First Plant Now Under Construction at Guagua for Canning Fish, Fruits, and Vegetables

Two canning plants, one of which is now under construction, and one can-making plant are included in the projects proposed by the National Development Company of the Philippine Islands for its subsidiary corporation, the National Food Products Corporation, according to a report from the office of the American trade commissioner at Manila. Plans of the Philippine corporation to engage in the canning and

preservation of local foodstuffs were reported in INFORMATION LETTERS for August 7, and October 30, 1937.

The first canning unit is being built now at Guagua, Pampanga. When completed it will have a total capacity of 5,400,000 cans annually. It is expected to offer an outlet for at least 5 tons of bangus (milk fish) daily, in addition to several tons of tuna, herring, vegetables, and fruits. Iloilo City has been proposed as the site for another packing plant for meat, fish, vegetables and fruits. It is planned to establish the modern can-making plant at Pureza, Manila.

When all the proposed units of the corporation have been established, the estimated total annual production will be 20,000,000 cans. The present yearly importation of canned fish, meat, and vegetables is placed at approximately 38,000,000 cans, which represents a per capita consumption by adults of four cans per year.

### Fruit and Vegetable Market Competition

Carlot Shipments as reported by the Bureau of Agricultural Economics, Department of Agriculture

	Week ending—			Season total to—	
	Sept. 3 1937	Sept. 3 1938	Aug. 27 1938	Sept. 3 1937	Sept. 3 1938
<b>VEGETABLES</b>					
Beans, snap and lima	6	2	8	8,088	8,098
Tomatoes.....	445	970	654	18,859	28,684
Green peas.....	120	160	215	6,255	5,197
Spinach.....	5	22	19	8,152	6,563
Others:					
Domestic, compet-					
ing directly.....	1,749	1,470	1,198	71,882	73,947
Imports, compet-					
ing indirectly....	3	31	13	12	51
<b>FRUITS</b>					
Citrus, domestic....	1,353	2,433	2,307	98,117	130,163
Imports.....	51	30	39	215	101
Others, domestic....	5,871	4,407	4,077	35,664	36,980

### National Sea Food Sales Drive Planned

A national sales drive for sea food, featuring a "National Fish Week" for the period October 6 to 15, has been announced by the New England fishing industry. The United States Bureau of Fisheries is cooperating with the industry. As an opening feature of the drive, a fishing industry convention and exposition will be held in Boston October 6-9. Secretary of Commerce Roper will open the convention.

Retail food distributors are expected to take an active part in the campaign. "Retailers' Night," both at the convention and the exposition, is scheduled for Thursday, October 6.

### June Shipments of Canned Fish from Japan

Exports of canned salmon from Japan during June, 1938, dropped to 40,906 cases, according to a report from the office of the American commercial attache at Tokyo. This is 35 per cent under May shipments, and 27 per cent below June, 1937, shipments. Principal losses occurred in exports to Europe and Oceania.

Shipments of ordinary canned crabs advanced somewhat beyond normal seasonal expectations during June, totaling 40,464 cases. This is a gain of 12,659 cases over May, and 6,186 cases over June, 1937. Increased purchases by the

United States and the United Kingdom were primarily responsible for the advance, the attache's office reported.

June exports of canned tuna and mackerel from Japan, totaling 16,566 cases, were 7,131 cases under May, 1938, and 37,916 cases less than in June, 1937. The decline under May was largely the result of seasonal conditions. It is stated that real recovery cannot be expected until after the Fall catch. There is little likelihood, however, that even an unusually good Fall catch will bring the final 1938 figures close to those for 1937, the report stated.

Shipments of canned tuna to the United States during June, 1938, fell to 8,625 cases, a drop of 7,894 cases from May. Exports to Malta and Belgium were lower, while those to Canada and Egypt gained slightly.

### Japanese Salmon Canning Along Kamchatka Coast

Number of cases of salmon canned by Nichiro Fisheries and Taiheiyō Fisheries through July 25, have been reported from the office of the American commercial attache at Tokyo. The Red salmon catch along the Eastern coast of Kamchatka is reported to have been fairly large up to August 5. The Nichiro Fisheries canned a total of 200,774 cases, including: Red salmon, 148,564 cases; Pink salmon, 49,892; Silver salmon, 440; and King salmon, 1,878. The Taiheiyō Fisheries canned a total of 216,734 cases of salmon, including: Red salmon, 205,490; Pink salmon, 9,627; Silver salmon, 1,254; and King salmon, 363.

### Requests for Publications Increase as Schools Open

Opening of schools in September is always a busy time for the Association's Home Economics Division. As usual, requests for publications have increased greatly during the past few weeks, coming directly from teachers as well as from one of the listing services used to interest grade teachers in the Division's publications.

The booklet entitled, "Information for the Canned Foods Shopper," is going out to all State and city supervisors of home economics throughout the country with the information that it is available for their teachers. This publication has already been sent to members of the Association, secretaries of State canners associations, trade papers, libraries, Home Economics Women in Business division members of the American Home Economics Association, home service directors of utility companies, magazine editors, and a selected list of newspaper writers. In addition a supply was sent to the New York State Fair at Syracuse at the request of the secretary of the New York State Canners Association.

This booklet was offered over a New York City radio program and to date about 300 requests for it have been received.

### Dry Skim Milk Purchases by FSCC

Purchase of 5,960,140 pounds of Class A "extra" grade spray process skim milk powder brought the total of dry skim milk purchases by the Federal Surplus Commodities Corporation during 1938, up to September 2, to 25,160,480 pounds. This dry milk required 130,549,660 quarts of fluid skim milk.



### Still More Money Advanced for Butter Purchases

Loans for financing the purchase of up to 115 million pounds of butter, of which 70 million pounds already have been bought, have been advanced to the Dairy Products Marketing Association, the Commodity Credit Corporation announced September 3. The total money advanced amounts to \$33,375,000.

The Agricultural Adjustment Administration said in a press release on September 7 that "the ever-normal granary program for butter, which is being operated with the help of Federal purchases and loans, will be extended to the degree necessary to maintain and stabilize butter prices throughout the year."

### AAA Programs Announced for Bees and Dates

Agricultural Adjustment Administration last week announced a marketing agreement program to regulate handling of package honey bees and queen bees. The same day AAA announced a program for diverting a maximum of 1,750,000 pounds of substandard dates produced in California and Arizona from regular trade channels to specified by-product uses, such as livestock feed, alcohol, brandy, or sugar.

### "Stories of American Industry" Published

Second series of "Stories of American Industry," a compilation of 32 radio programs which each told a story of one great American industry, including canning, has been published by the Department of Commerce and can be bought for 20 cents at the Government Printing Office.

The broadcasts were in the form of narrative and dramatic episodes. However, the dramatic scenes have been eliminated from the book.

The material on canning in the book deals with the beginning of canning; the inventions of the pea viner, corn husker, and can-making machinery; the first canning of concentrated soup; and with past and present-day bacteriological research of Prof. Harry Russell and the Association's laboratories. Credit is given the industry for improving quality of agricultural products; for providing safe, economical, and nutritious diets for Americans; and for contributing to the prosperity of Hawaii and Alaska by offering a valuable market for pineapple and salmon.

### Head of Child-Labor Section Named

Beatrice McConnell was appointed this week in charge of administration of child-labor provisions of the Fair Labor Standards Act by Katherine Lenroot, chief of the Children's Bureau, which is to administer these provisions. Miss McConnell has been director since February, 1935, of the Bureau's industrial division, which has carried on research and advisory service in connection with child-labor subjects. Mrs. Elizabeth B. Coleman, New York, has been appointed assistant director of the industrial division in charge of child-labor administration.

The Act authorizes the chief of the Children's Bureau to determine the occupations that are particularly hazardous for employment, or detrimental to the health or well-being of children between the ages of 16 and 18 years. It is understood that chief reliance in administration of child-labor pro-

visions of the Act will be placed upon the cooperation and assistance of State agencies.

### Regional Set-Up Planned for Wage Body

Tentative regional organization of the wage-hour administration was indicated this week by Elmer F. Andrews, administrator. The organization is patterned after that of the Social Security Board with 12 regional offices. The States in these regions as tentatively planned are:

Region 1—New England States; 2—New York; 3—Delaware, New Jersey, and Pennsylvania; 4—District of Columbia, Maryland, North Carolina, Virginia, and West Virginia; 5—Kentucky, Michigan, and Ohio; 6—Illinois, Indiana, and Wisconsin; 7—Alabama, Florida, Georgia, Mississippi, South Carolina, and Tennessee; 8—Iowa, Minnesota, Nebraska, North Dakota, and South Dakota; 9—Arkansas, Kansas, Missouri, and Oklahoma; 10—Louisiana, New Mexico, and Texas; 11—Arizona, Colorado, Idaho, Montana, Utah, and Wyoming; 12—California, Nevada, Oregon, and Washington.

### Canners Admitted to Membership

The following firms have been admitted to membership in the Association since June 11, 1938:

Alaska Southern Packing Co., Inc., Seattle, Wash.  
H. C. Brill Co., Inc., Newark, N. J.  
Brula Food Products Corp., Long Island City, N. Y.  
Buckeye Canning Co., Weston, Ohio.  
Burnett Inlet Salmon Co., Wrangel, Alaska.  
Hartmann Canning Co., Inc., Macedon, N. Y.  
Dean Kayler Co., Petersburg, Alaska.  
Midwest Federated Cooperative Assn., St. Louis, Mo.  
Pacific Fisheries & Trading Co., Seattle, Wash.  
Paxton Food Products, Inc., Paxton, Ill.  
Port Orford Sea Food Co., Inc., Port Orford, Ore.  
Henry W. Roberts, Salisbury, Md.  
Roselli's Pure Food Co., Inc., Merchantville, N. J.  
Sheep Bay Packing Co., Cordova, Alaska.  
Spencer Packing Co., Seattle, Wash.  
Sunnical Packing Corp., Oroville, Calif.  
Thornton Canning Co., Thornton, Calif.  
Thrift Packing Co., Dallas, Texas.

### TOMATO PASTE INDUSTRY RULES

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applicable provisions of law or by rules or regulations in pursuance thereof, then such higher percentage so fixed shall be considered the minimum under these rules, in lieu of such 22 per cent specified in paragraph (a) of this rule.

(c) Heavy Tomato Paste ("Concentrato") is understood to be tomato paste containing not less than 33 per cent of tomato solids.

(d) It is an unfair trade practice for any member of the industry or other seller to cause the concentration or content of his tomato paste to be misrepresented, or by any other means to represent, directly or indirectly, that the product is of a certain concentration of 22 per cent or more tomato solids when such is not true in fact.

### Rule 3.—Misrepresentation as to Tomato Paste

It is an unfair trade practice to sell, offer for sale, advertise, describe, or otherwise represent, directly or indirectly, any product as being tomato paste (*Salsa di Pomodoro*,

"Salsa"), heavy tomato paste ("Concentrato"), or other similar tomato paste product, when such product does not conform to the specifications hereinabove set forth in Rule 2.

**Rule 4.—Misrepresentation as to Artificial Color**

It is an unfair practice to sell, offer for sale, advertise, or otherwise represent, directly or indirectly, any product of the industry containing added artificial color without then and there making full and non-deceptive disclosure of the presence of such added artificial color. The use of any coloring matter whatsoever shall not be permitted when the same is introduced for the purpose or with the effect of concealing or masking damage or inferiority, or of adulterating the product or rendering the same deleterious.

**Rule 5.—Misrepresentation as to Tomato Content of Product**

It is an unfair trade practice to sell, offer for sale, advertise, describe, or otherwise represent, directly or indirectly, any product of the industry as containing a higher tomato solids content than is actually the case.

**Rule 6.—Deceptive Depictions**

The use of photographs, cuts, engravings, illustrations, or pictorial or other depictions, or devices, of industry products, in catalogues, sales literature, advertisements, or other representations, in such manner as to have a capacity and tendency or effect of misleading or deceiving the purchasing or consuming public as to the origin, manufacture, grade, quality, quantity, size, composition, material, coloring, or content of any products of the industry, or of ingredient thereof, or in any other material respect, is an unfair trade practice.

**Rule 7.—Defamation of Competitors and Disparagement of Their Products**

The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality, or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies, or services, is an unfair trade practice.

**Rule 8.—Substituting Inferior Products for Those Ordered**

The practice of using or substituting any product of the industry inferior in grade or quality to that specified by the purchaser, without the consent of said purchaser to such use or substitution, or with the tendency, capacity, or effect of otherwise misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

**Rule 9.—Commercial Bribery**

Directly or indirectly to give, or permit to be given, or offer to give, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors, is an unfair trade practice.

**Rule 10.—Inducing Breach of Contract**

Knowingly inducing or attempting to induce the breach of existing lawful contracts between competitors and their

customers or their suppliers by any false or deceptive means whatsoever, or knowingly interfering with or obstructing the performance of any such contractual duties or services by such means, with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their businesses, is an unfair trade practice.

**Rule 11.—Enticing Away Employees of Competitors**

Willfully enticing away the employees of competitors with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their businesses, is an unfair trade practice.

**Rule 12.—Selling Below Cost**

The practice of selling industry products below the seller's cost with the intent and with the effect of injuring a competitor and where the effect may be substantially to lessen competition or tend to create a monopoly or unreasonably restrain trade is an unfair trade practice; all elements recognized by good accounting practice as proper elements of such cost shall be included in determining cost under this rule.

**Rule 13**

(a) *Prohibited Discriminatory Prices, or Rebates, Refunds, Discounts, Credits, etc., Which Effect Unlawful Price Discrimination:* It is an unfair trade practice for any member of the industry engaged in commerce,<sup>a</sup> in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential,<sup>a</sup> where such rebate, refund, discount, credit, or other form of price differential effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce,<sup>b</sup> and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce,<sup>b</sup> or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them: Provided, however—

- (1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;
- (2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;
- (3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce<sup>b</sup> from selecting their own customers in bona fide transactions and not in restraint of trade;

<sup>a</sup> Paragraph (a) of Rule 13 shall not be construed as embracing practices prohibited by paragraphs (b), (c), and (d) of this rule.

<sup>b</sup> As herein used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, that this shall not apply to the Philippine Islands.

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited Brokerage and Commissions:* It is an unfair trade practice for any member of the industry engaged in commerce,<sup>8</sup> in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited Advertising or Promotional Allowances, etc.:* It is an unfair trade practice for any member of the industry engaged in commerce,<sup>8</sup> to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited Discriminatory Services or Facilities:* It is an unfair trade practice for any member of the industry engaged in commerce<sup>8</sup> to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Illegal Price Discrimination:* It is an unfair trade practice for any member of the industry or other person engaged in commerce,<sup>8</sup> in the course of such commerce, to discriminate in price in any other respect contrary to Section 2 of the Clayton Act as amended by the Act of Congress approved June 19, 1936 (Public No. 692, 74th Congress), or knowingly to induce or receive a discrimination in price which is prohibited by such section as amended.

#### Rule 14.—Misrepresentation as to Basil, etc.

It is an unfair trade practice to cause any tomato paste or related product to be represented, directly or indirectly, as containing basil leaf or any other ingredient when such is not true in fact; or when such basil leaf or other specified ingredient has been omitted in packing from various or sundry cans of the product so represented.

#### Group II

The trade practices embraced in these Group II rules are considered to be conducive to sound business methods and are to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Non-observance of such rules does not, *per se*, consti-

tute violation of law. However, the failure to observe them under certain circumstances may result in an unfair method of competition contrary to law. In such event, a corrective proceeding may be instituted by the Commission as in the case of a violation of Group I rules.

#### Rule A.—Disclosure of Solids Content

The practice, by each member of the industry, of making clear and non-deceptive disclosure to the purchasing public of the percentage or proportion of tomato solids present in his product, thereby disclosing whether his tomato paste contains only the minimum percentage of tomato solids or some higher percentage, is recommended as a proper and desirable practice to follow in the interest of affording consumers and other purchasers correct information as to the concentration of the product, and of avoiding confusion, deception and misrepresentation in respect thereto.

#### Rule B.—Repudiation of Contracts

Lawful contracts are business obligations which should be performed in letter and in spirit. The repudiation of contracts by sellers on a rising market or by buyers on a declining market is condemned by the industry.

#### Rule C.—Fake or Fictitious Bids

The industry condemns fake or fictitious bids made for the purpose of deceiving competitors and securing undue advantage. If plans and specifications are changed and new bids called for after the original bids have been submitted and opened, the same fairness should obtain as with the original bid.

#### Rule D.—Truthful Disclosure of Quality of Products

In the interest of consumer protection, the industry records itself as favoring, and recommends, the practice of members making fair and truthful disclosure, in their advertising, labeling, sales literature, and other selling representations, of the quality and content of their products.

#### Rule E.—Dissemination of Credit Information

The industry records its approval of distributing information covering delinquent and slow accounts insofar as it may be lawfully done.

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